IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 5917 OF 2005

A.S. Gaikwad and Anr. ... Petitioners

Versus

Union of India and Ors. ... Respondents

Mr. Rahul Walia for Petitioners.

Mr. Sureshkumar for Respondents.

CORAM : F.I. REBELLO &
MRS R.S. DALVI**.JJ.**
DATED : NOVEMBER 23, 2005

P.C.

. Two Petitioners who had filed independent Original Applications before the Central Administrative Tribunal have moved this court by present petition. Petitioners had been chargesheeted having entered into railway services based on false and fabricated documents. Disciplinary proceedings were initiated. An enquiry was held at which two vigilance officers were examined and cross examined. The enquiry Officer based on the evidence available came to the conclusion that the charges against the petitioners herein are proved. The Disciplinary Authority

after complying with the procedure concurred with the findings given by the Enquiry Officer and punishment was imposed on the Petitioners herein. An appeal was preferred. That appeal came to be dismissed against which the Petitioners herein approached the Central Administrative Tribunal. The Central Administrative Tribunal by common order in Several Original applications which included the cases of the present petitioners disposed of the same by order dated 31.8.2004. It is this order which is the subject matter of the present petition. It may be noted that before C.A.T. the Petitioners had raised nine contentions, each one of which has been dealt with and answered by the Central Administrative Tribunal.

. On behalf of the Petitioners, the learned counsel firstly contends that the writers of the documents were not examined and in these circumstance, the entire enquiry stands vitiated as there was no material available before the Enquiry Officer. The said contention as raised was the third contention before the C.A.T. Before the Enquiry Officer, two vigilance officers were

examined and cross examined. This was the evidence which was considered by the Enquiry Officer. The Tribunal has noted that if the Petitioners wanted any additional evidence, it was always open to them to call for the same. That was not done. It is also noted that the contention was merely an afterthought and said contention was rejected. It cannot be said that the view taken by the C.A.T. is a view incapable of being taken. In the light of that the first contention must be rejected.

. It is secondly contended that the Disciplinary Authority has made up his mind in as much as even after show cause notice, the enquiry Officer was appointed. In other words, it is submitted that the Disciplinary Authority had came to the conclusion that the Petitioners were guilty. This contention was also raised before the C.A.T. as contention No. 1. C.A.T. has recorded a finding that the Railway Board vide letter dated 29.3.2005 has directed simultaneous issue of chargesheet and ordered appointment of Enquiry Officer to avoid delay in disciplinary proceedings. Even if this contention was to be considered, the Petitioner has

to disclose serious prejudice occasioned to him by appointment of Enquiry Officer and simultaneous issuance of show cause notice. We find that the Petitioner had full opportunity of meeting the case before the Enquiry Officer. The Disciplinary Authority was distinct from the Enquiry Officer. In these circumstances, we do not find any merit in the contention raised on behalf of the Petitioners.

. Lastly it is contended that there were no independent witnesses and that only vigilance officers were examined. The law is now settled. What the enquiry Officer must consider is material before it and the procedure for enquiry does not require compliance with the procedure Code nor the strict rules of evidence. What is to be examined is whether there was sufficient material before the Enquiry Officer to enable him to come to the conclusion arrived at and the employee had a fair opportunity. We are therefore, of the opinion that the findings recorded by the Central Administrative Tribunal does not suffer from any error.

. Hence, no interfere is called for. Petition

rejected. Rule discharged. No order as to costs.

(F.I. REBELLO,J.)

(MRS. R.S. DALVI,J.)